IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8318 OF 2005

Smt.Krishnabai Dattatray Sutar
and others Petitioners

versus

Additional Commissioner & ors. Respondents

Mr.C.G.Gavnekar for petitioners.

Mr.P.D.Dalvi for respondent no.6.

Mr.A.H.Palekar, AGP for respondent no.5.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 6th February 2006

PC :

1. Heard Shri Gavnekar for petitioner and Shri Dalvi for respondent no.6.

2. Perused with the assistance of Shri Gavnekar the order passed by the Additional Collector, Kolhapur on 8th November 2003 and the revisional order which is passed by the Additional Commissioner, Pune Division on 13th May 2005.

3. As has been observed by the revisional

authority, the land in question was not cultivated by the petitioner herein - opponent before the revisional authority. The revisional authority has observed that there was a partition amongst two brothers. The issues were not whether the petitioner is an heir but as to whom the right of cultivation is conferred by the Devasthan Committee. Further, what is the effect of the deed of partition upon the rights of petitioner in the suit land.

4. All these aspects are not for this Court to go into. More particularly, when the petitioner can institute a suit against respondent no.6 and assert his right, title and interest in the immovable property. It is open for the petitioner to assert his right as an heir of the tenant by virtue of the provisions contained in Bombay Tenancy and Agricultural Lands Act, 1948. All such issues have to be necessarily decided by the Civil Court and the findings rendered by the authorities in the proceedings for mutating the names in the land records cannot bind a Civil Court. Leaving all such contentions open for the parties, petition is dismissed.

(S.C.DHARMADHIKARI, J.)